

WESTERN USA PLUS FLIGHT PASSES

NOTICE TO CLASS MEMBERS OF A PROPOSED SETTLEMENT AGREEMENT

(*HURST v. AIR CANADA*, 500-06-000756-151)

PROCEEDINGS

On January 27, 2017, a class action was authorized against Air Canada. The plaintiff, Mr. David Hurst, alleged that Air Canada, in cancelling Western USA Plus Flight Passes purchased on August 25-6, 2015, breached the *Consumer Protection Act* and/or its contractual obligations. The trial occurred on February 18, 20, 25, and 26, 2019 and the parties reached a settlement before the judge was required to deliver judgement.

WHAT IS THIS CLASS ACTION CLAIMING?

The class action sought to establish whether Air Canada required its customers to pay a price higher than the one advertised on its website in contravention of the Québec *Consumer Protection Act*. The Class Action seeks to obtain for class members compensation and punitive damages.

Air Canada denies any wrongdoing, and no court has concluded to any wrongdoing by Air Canada.

AM I PART OF THIS CLASS ACTION?

This class action includes all 1273 persons who between August 25, 2015 and August 28, 2015 (1) purchased, received, and/or acquired a Flight Pass from Air Canada's internet website, which consisted of credits for ten business class one-way flights in the Western USA and/or Canada; and (2) had their Flight Pass delivered to their Air Canada internet website account and subsequently removed from their internet website account by Air Canada.

PROPOSED SETTLEMENT AGREEMENT

The Settlement Agreement provides for the following, subject to Court approval:

1. Air Canada shall establish a settlement fund in the amount of \$1,018,400.
2. Class Counsel's legal fees and expenses of \$377,900 (inclusive of all taxes) will be paid out from the settlement fund in the form of cash.
3. Each Class Member will be entitled to 1/1274th of the remaining settlement fund, which will be issued to each Class Member in the form of an Air Canada eCoupon, valid for twelve months, that may be used to purchase Air Canada flights or ancillary services. It is estimated that each Class Member's credit will be approximately \$500.
4. In addition to the plaintiff's own share of the settlement fund, the representative plaintiff will be further entitled to a service award of 1/1274th of the remaining settlement fund, also payable in the form of an electronic credit.

The Settlement Agreement and other court documents are available at <http://evolinklaw.com/air-canada-flight-pass-national-class-action/>.

SETTLEMENT AGREEMENT APPROVAL HEARING

The Superior Court of Québec must approve the Settlement Agreement before it can take effect. The Court will review the terms of the Settlement Agreement to ensure that they are fair, reasonable and in the best interests of the Class Members.

The Approval Hearing will take place on October 28, 2019 at 9:30 a.m. before the Superior Court of Québec, at the Montreal Courthouse, 1 Notre-Dame Street East, in Montreal, Quebec, Canada in courtroom 2.08. At this hearing, the Court will hear any objection filed by Class Members regarding the proposed Settlement Agreement, in accordance with the deadlines and

procedure set forth below. Class Members who do not oppose the proposed settlement are not required to attend this hearing or to take any action to indicate that they intend to be bound by it.

Class members that do not object to the settlement terms do not have to do anything and do not have to attend the Settlement Approval Hearing.

WHAT ARE MY OPTIONS?

If you are a Class Member, you have the following **two (2) options**:

1. Take no further action and remain as a Class Member to receive the Air Canada eCoupon; or
2. Remain as a Class Member and, if you disagree with the settlement agreement, object to the settlement by no later than October 15, 2019 in accordance with the steps noted further below for objecting to the settlement terms.

Please note that the Court cannot change the settlement terms. Any objections will be used by the Court to consider whether to approve the settlement or not.

Further details about the process of objecting to the settlement are set out below.

WHAT CAN I GET FROM THE PROPOSED SETTLEMENT?

Upon court approval of the settlement, each Class Member will be entitled to receive approximately \$500 in transferable credits in the form of an Air Canada eCoupon that may be used for the purchase of travel and other ancillary services. The credit is valid for twelve months and there is no minimum purchase requirements.

WHAT AM I GIVING IN THE PROPOSED SETTLEMENT?

You cannot participate in any other lawsuit against Air Canada in relation to the mispricing of the Western USA Plus Flight Pass on or around August 25-26, 2015 and you will be releasing Air Canada from any liability in relation to that incident.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions, you can speak with Class Counsel, or you can consult your own lawyer (at your own cost).

DO THE CLASS MEMBERS HAVE A LAWYER IN THIS CASE?

Yes. The attorneys representing the Class Members are the law firms Champlain Avocats (based in Quebec) and Evolink Law Group (based in British Columbia). All legal fees by Class Counsel are covered under the terms of the Settlement Agreement and you will **not** be charged further fees for Class Counsel's work on the case.

HOW WILL CLASS COUNSEL BE PAID?

As part of the settlement and subject to Court approval, Air Canada has agreed to pay \$377,900 inclusive of all taxes to cover all legal fees and expenses and settlement administration costs.

WHAT IF I DISAGREE WITH THE PROPOSED SETTLEMENT?

If you disagree with the proposed settlement, you can object to it by delivering a written submission on or before October 15, 2019 filed with the Court, with copy to Class Counsel and Air Canada's counsel.

- a) a heading referring to this proceeding (*Hurst v. Air Canada – 500-06-000756-151*);
- b) your full name, mailing address, telephone number(s), and email address and, if represented by a lawyer, the name, address, telephone number, and email address of your lawyer;
- c) a statement whether you intend to appear at the Settlement Approval Hearing, either in person or through a lawyer;
- d) a declaration that you consider yourself to be a Class Member;

- e) a statement of the grounds of your objection;
- f) copies of any papers, briefs, or other documents upon which the objection is based;
- g) a declaration that the foregoing information is true and correct; and
- h) your signature.

HOW DO I OBTAIN MORE INFORMATION?

For more information, please contact Class Counsel:

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Please note that in case of any discrepancy between the terms of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail. Any term not defined in this Notice shall have the meaning ascribed in the Settlement Agreement.

THE PUBLICATION OF THIS NOTICE HAS BEEN APPROVED BY THE COURT.